



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 2551-00

28 September 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 September 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you reenlisted in the Marine Corps on 12 September 1958 after three years of prior honorable service. Your record reflects that on 22 October 1958 you received nonjudicial punishment (NJP) for absence from your appointed place of duty and were awarded a reduction in rate. Shortly thereafter, on 19 December 1958, you were convicted by summary court-martial (SCM) of absence from your appointed place of duty and two specifications of failure to obey a lawful order. You were sentenced to a \$60 forfeiture of pay.

Your record further reflects that on 28 May and again on 13 September 1960 you were convicted by SCM of absence from your appointed place of duty, failure to obey a lawful order, and sleeping on post.

On 5 January 1961 you were convicted by special court-martial (SPCM) of intoxication and being incapacitated for duty. You were sentenced to forfeitures totalling \$210, confinement at hard labor for three months, and a bad conduct discharge (BCD). The BCD was suspended for six months. On 29 March 1961 you were

convicted by SCM of absence from your appointed place of duty and two incidents of failure to go to your appointed place of duty. You were sentenced to hard labor for 30 days and a \$50 forfeiture of pay.

Your record also reflects a 42 day period of unauthorized absence (UA) for which there is no disciplinary action in the record.

Subsequently, you were processed for an administrative separation by reason of unfitness due to frequent involvement of a discreditable nature with military authorities. At this time you waived your rights to consult with legal counsel and to present your case to an administrative discharge board (ABD). Your commanding officer recommended you be issued an other than honorable discharge by reason of unfitness. Accordingly, the discharge authority directed your commanding officer to issue you an other than honorable discharge and on 7 February 1962 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors such as your youth and immaturity, good post service conduct, and your contention that your severe family and marital problems were the cause of your separation and the Marine Corps did not provide any assistance to you for these problems. The Board further considered your request for recharacterization of your discharge so that you may be eligible for social security and civil service benefits. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your frequent misconduct, which resulted in an NJP and five court-martial convictions. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director